

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on January 17, 2001 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Pete Ekegren (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Ken Toole (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 185, SB 205, SB 235,
1/10/2001
Executive Action: SB 184, SB 49, SB 235

{Tape : 1; Side : A; Approx. Time Counter : 0}

HEARING ON SB 235

Sponsor: SEN. VICKI COCCHIARELLA, SD 32, Missoula

Proponents: Tom Schneider, Montana Public Employees Association
Kelly Jenkins, General Counsel for Public Employees Retirement Board
Tom Bilodeau, Montana Education Association

Jim Oberhoffer, private citizen
Pat Clinch, Montana State Council for Retired
Firefighters
Troy McGee, Chief of Police
Jerry Williams, Montana Police Protective Association

Opponents: None

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA, SD 32, Missoula, opened by stating this bill says if you are retired from one system and go to work for another, you are entitled to the guaranteed annual benefit adjustment. She said the fiscal note states the actuarial costs were paid for and covered by Guaranteed Annual Benefit Adjustment.

Proponents' Testimony:

Tom Schneider, MPEA, EXHIBIT(sts13a01) explained the handout detailing the GABA benefit.

Kelly Jenkins, General Counsel for Public Employees Retirement Board, expressed support for this bill. This bill affects a relatively small number of people and there are no actuarial costs, he said.

Tom Billedeau, Montana Educational Association supported this bill. **Mr. Billedeau** told the committee this bill would bring all of the PERS systems into the same positions as TRS is. This bill would bring all public pension systems into compliance and promote homogeneity into the systems.

Jim Oberhoffer, representing himself, stated he was a retired police chief in Missoula and that he was one of the people this bill would affect. He said since he went to work for the State, he doesn't receive GABA, but if he had gone to work in any other field, he would be receiving GABA now. He urged support for this bill.

Pat Clinch, Montana State Counsel for Retired Fire Fighters, said one of the methods of funding the GABA bill when it initially passed was funding swaps, changing benefits for other benefits. He urged support for this bill.

Troy McGee, Chief of Police, EXHIBIT(sts13a02) explained the handout on SB 235 and GABA.

Jerry Williams, Montana Police Protective Association, urged support for this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. HARGROVE asked **Tom Schneider** why the information was put in if the actuary was thinking differently and planned on it not being there? **Mr. Schneider** responded that he did not understand why that happened and that the person responsible was not working for the retirement system any longer.

Closing by Sponsor: **SEN. VICKI COCCHIARELLA** closed SB 235. She urged the committee to look at the fiscal note and reiterated this bill was a fairness issue.

HEARING ON SB 185

Sponsor: **SEN. JOHN COBB, SD 25, Augusta**

Proponents: **Linda Vaughey, Commissioner of Political Practices**

Opponents: None

Opening Statement by Sponsor:

SEN. JOHN COBB, SD 25, Augusta, opened SB 185 **EXHIBIT(sts13a03)** by saying this bill revises laws governing election campaign finances.

Proponents' Testimony: **Linda Vaughey, Commissioner of Political Practices,** commented on the amendment in Section 10 which would increase the amount of time that was allowed to inspect reports from ten days to twenty days. She said with only allowing ten days to inspect the reports, the small staff of four had to work a lot of overtime which affected their budget. She also expressed concern about accuracy if they were rushed. She stated Section 16 of the bill amends the \$500 to \$200 on the form C7 that was required to be filed. She said, presently, a state district candidate was required to submit that form to them within 48 hours of receiving a contribution of more than \$100. This section of the bill was a clean-up of language addition.

{Tape : 1; Side : B; Approx. Time Counter : 0}

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. EVE FRANKLIN asked **Jim Shire, legal services**, what kind of change in procedure they might have if a candidate is found to be in non-compliance of some rule? **Mr. Shire** responded that the purpose of including this provision was to avoid potential argument that someone might make saying you can't file a civil action against failing to file reports because they didn't go through the procedure outlined in this bill. This bill gives the Commissioner a little more flexibility to deal with a violator depending on the circumstance.

SEN. KEN TOOLE asked who actually decides to move ahead with civil action? **Jim Shire** said the procedure that is outlined in the statute presently is when the commissioner gets a complaint that someone has violated the statute in their jurisdiction, she would conduct an investigation. If she would conclude there was sufficient evidence to go forward, the county attorney would have 30 days to look at it and decide whether to initiate a prosecution, either civil or criminal. The process would be the same for either criminal or civil charges.

SEN. JOHN BOHLINGER told **Jim Shire** he had a hard time understanding why it was suggested to repeal Section 18, which would allow for a political criminal liable. **SEN. BOHLINGER** asked if there might be some use for that at a future date? **Mr. Shire** responded that was a policy decision the committee would have to make. The purpose of the suggested change by the commissioner was based on past experience. There had been many complaints filed at the office alleging violation of the statute and it was proven difficult to proceed with prosecution, he said.

SEN. JIM ELLIOTT told **Commissioner Vaughey** the language in section two reflects the prohibition of electioneering the entrances of a polling place from 200 feet to 100 feet and asked if someone was stationed directly outside the entrance to the polling booth collecting signatures for a petition that would perhaps reflect negatively upon one of the candidates in the election, would they be stopped? **Ms. Vaughey** responded in her estimation, the only way that particular petitioning could be stopped would be the candidate would have to complain; the decision would then have to be made whether her office would call the individual and ask them to cease or if the matter would be turned over to the election administrator that was supervising the polling place. She expressed she would need to look into that further.

Closing by Sponsor: **SEN. JOHN COBB, SD 25**, closed on SB 185.

HEARING ON SB 205

Sponsor: SEN. JOHN COBB, SD 25, Augusta

Proponents: Linda Vaughey, Commissioner of Political Practices
Jack Holstrom, Montana Association of Counties

Opponents: None

Opening Statement by Sponsor:

SEN. JOHN COBB, SD 25, opened SB 205 4 **EXHIBIT(sts13a04)** by explaining ethics statutes.

{Tape : 2; Side : A; Approx. Time Counter : 0}

Proponents' Testimony:

Linda Vaughey, Commissioner of Political Practices, said the ethics statutes should be a road map for people who want to do the right thing. She said the amendments try to address the differences between local government and state government and what coalitions apply to the tri-unity of government. She said her office was seeking to eliminate the Ethics Commission because the Ethics Commission had never existed. **Ms. Vaughey** said the Ethics Commission was probably implanted from some other state.

Jack Holstrom, Montana Association of Counties, said he has gotten many questions regarding the Code of Ethics. In 1995, there was a compilation of several Ethics laws which attempted to put all of those laws in one particular place so that the elected officials and employees would know what was prohibited conduct and what was permissible. He said in doing so, some confusion was created. The purpose of the amendments in SB 205 was to clarify that the Code of Ethics laws apply to all areas of government.

Roberta Cross Guns, Common Cause, stated this bill was well thought out and well written. She urged support for this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. HARGROVE asked **Mr. Shire** if a candidate had a problem with an opponent and reported that to the Commissioner of Political Practices, then sent out a letter to the public saying what the opponent was doing and that they had reported it to the Commissioner of Political Practices, would that be legal? **Mr.**

Shire responded that under the current law, the complaint would be confidential.

SEN. BOHLINGER told **Mr. Shire** he was concerned about the elimination of the decriminalization of the ethics statute. He asked if there might be incidence where it would be necessary to have that as a provision for prosecution as opposed to just civil penalties? **Mr. Shire** responded that there was an official misconduct statute that criminalizes certain activities of public officials and employees.

Closing by Sponsor:

SEN. JOHN COBB, SD 25, closed SB 205.

EXECUTIVE ACTION ON SB 184

Motion/Vote: **SEN. EKEGREN** moved that **SB 184 DO PASS**. Motion carried unanimously.

EXECUTIVE ACTION ON SB 49

Motion/Vote: **SEN. FRANKLIN** moved that **SB 49 DO PASS**.

Discussion: **SEN. TOOLE** said this bill frustrated him because he did not feel they got to the real problem.

SEN. BUTCHER said he opposed this bill because it's more bureaucracy. Why add more laws and rules if there was not going to be some sort of substantial improvement? he asked.

Motion: **SEN. BUTCHER** moved that **SB 49 BE TABLED**.

SEN. TOOLE said he felt there needed to be more discussion first.

Motion: **SEN. BUTCHER** withdrew motion that **SB 40 BE TABLED**.

SEN. BOHLINGER said he supported **SEN. DOHERTY's** effort in this bill to provide a mechanism that will require candidate's to certify that what they say is true. He said the people of Montana are sickened by ugly campaigns that have taken place. He hoped this would eliminate some of the smear tactics.

SEN. EKEGREN said this bill would not accomplish a lot.

SEN. ELLIOTT said he was in favor of this bill if only because it would make the person writing the text stop and think if the text was true.

SEN. BUTCHER commented this bill was well intentioned, but he questioned the logistics.

David Niss, legislative services, said the implication here was that if an affidavit was not filed, the advertisement could not be used, which was what the US Supreme Court called prior restraint of free speech. That was what would be unconstitutional, but it was a genuine issue with this bill.

Motion/Vote: **SEN. BUTCHER** moved that **SB 49 BE AMENDED that material will not be maintained beyond twelve months from the date of the election and the file. Motion carried unanimously.**

SEN. FRANKLIN asked if this bill would really compel people to do the right thing?

Motion/Vote: **SEN. BUTCHER** moved that **SB 49 BE TABLED. Motion carried 5-3 with Bohlinger, Elliott, and Franklin voting no.**

EXECUTIVE ACTION ON SB 235

Motion/Vote: **SEN. EKEGREN** moved that **SB 235 DO PASS. Motion carried unanimously.**

ADJOURNMENT

Adjournment: 12:00 A.M.

SEN. DON HARGROVE, Chairman

LYNETTE BROWN, Secretary

DH/LB

EXHIBIT (sts13aad)